

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>FRANK T. AND MATIA KAPURANIS ET AL,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket No.: 60445</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on September 28, 2012, Debra A. Baumbach and James R. Meurer presiding. Petitioner appeared pro se. Respondent was represented by George Rosenberg, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

**310 S. Chambers Road, Aurora, Colorado  
Arapahoe County Schedule No. 1975-17-2-20-001**

The subject property is the Alameda-Chambers Connection Shopping Center consisting of five single and multi-tenant buildings containing a total of 59,671 square feet. Site size is 5.653 acres, there are 555 feet of frontage along E. Alameda Pkwy., and all utilities are publically provided. Parking consists of approximately 315 surface spaces including those designated for the handicapped. Year of construction was 1985 and the improvements are considered to be in average condition. Approximately 5,000 square feet of the subject center did not have tenant finish as of the valuation date. In addition to the retail tenants, there is a T-Mobile Cell Tower located on the property that generates rental income.

Petitioner is requesting an actual value of \$1,500,000 for the subject property for tax year 2011. Respondent assigned a value of \$2,200,000 for the subject property for tax year 2011.

Petitioner provided a schedule of actual income and expenses for years 2009 and 2010 and capitalized the actual net income for each year at 8.5% overall capitalization rate. The

values resulting from these direct capitalization models ranged from \$1,254,400 for 2009 to \$1,038,188 for 2010. In addition, Petitioner testified that the center was 50% vacant as of the valuation date. Petitioner reconciled at a value of \$1,500,000 and testified that incorporated into this opinion of value was the recognition of increased leasing in the future.

Petitioner argued that the actual income and expenses for the subject property more accurately reflected the market conditions and resulting value for the subject property for tax year 2011.

Respondent presented the following indicators of value:

Cost:	Not Developed
Market:	\$2,390,000
Income:	\$2,700,000

Based on the market and income approaches, Respondent presented an indicated value of \$2,500,000 for the subject property; however, noted that the current assigned value for the subject is \$2,200,000.

Respondent's witness, Mr. Mark F. Kane, a Certified General Appraiser with the Arapahoe County Assessor's Office, presented a market (sales comparison) approach referencing four sales. The comparables ranged in sales price from \$30.48 to \$68.24 per square foot and in dates of sale from March of 2009 to June of 2010. Mr. Kane concluded to an adjusted value of \$40.00 per square foot based on 59,671 rentable square feet resulting in a value via the market approach of \$2,390,000.

Respondent's witness also presented an income approach resulting in a value of \$2,700,000 for the subject. Ten rent comparables were included in the analysis. The analysis provided by Mr. Kane concluded to a \$8.00 per square foot triple net market rental rate, a 20% stabilized vacancy factor, a 10% expense factor, and an overall capitalization rate of 10.0%. Mr. Kane also calculated an excess vacancy adjustment of \$740,000 to reflect the vacancy in the subject as of the valuation date.

Respondent argued that the value for the subject is best represented by the sales of the comparable retail properties used in the market approach, as well as by the market income and expenses used in the income approach.

Respondent presented sufficient probative evidence and testimony to show that the tax year 2011 valuation of the subject property was correct. Petitioner did not present sufficient probative evidence to dispute Respondent's assigned value. "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence. . . ." *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005).

In addition, Colorado law requires that the unit assessment rule be used for ad valorem valuation. The unit assessment rule is a rule of property taxation which requires that "all estates in a unit of real property be assessed together, and the real estate as an entirety be assessed to the

owner of the fee "free of the ownerships of lesser estates such as leasehold interests .... " *City and County of Denver v. Board of Assessment Appeals*, 848 P.2d 355, 359 (Colo. 1993). "It prohibits multiple assessments on multiple taxpayers holding disparate interests in a single piece of property." *Id.* "In other words, both the lessor's interest and the lessee's interest are assessed simultaneously, and the property taxed as though it was an unencumbered fee." *Id.*

After careful consideration of the testimony and exhibits presented in the hearing, the Board concludes that the comparable sales used in Respondent's market approach and the income and expenses employed in the income approach are reasonable, and therefore most accurately reflect the market value for the subject.

**ORDER:**

The petition is denied.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 15<sup>th</sup> day of October, 2012.

**BOARD OF ASSESSMENT APPEALS**

*Debra A. Baumbach*

Debra A. Baumbach

*James R. Meurer*

James R. Meurer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Milla Crichton*

Milla Crichton

